

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RAMON DESAGE; *et.al.*,

Defendants.

Case No. 2:13-cr-39-JAD-VCF

ORDER

Before the court are Desage's motion for production of certain tax returns (ECF No. 218), the Government's response (ECF No. 219), and Desage's reply (ECF No. 222).

In his motion, Desage requests the tax returns and IRS information for two of his alleged victims, Jacob (Yakob) Heftez and Herb Frey. (ECF No. 218) He argues that this information is exculpatory *Brady* material and contains *Giglio* impeachment evidence. (*Id.*) The Government contends that Desage has not met the *Brady* materiality standard so as to trigger the Government's obligation to disclose the tax returns and IRS records. (ECF No. 219)

Desage also argues that "[a]t the very least, the Government must produce these items for in camera review by the Court." (ECF No. 218) The Ninth Circuit has "encouraged the government to submit close questions regarding materiality to the court for *in camera* review, [although] the government is not required to do so." *United States v. Lucas*, 841 F.3d 796, 807 (9th Cir. 2016). Here, the question of materiality appears close enough to justify *in camera* review. Without reviewing

1 Heftez's and Fey's tax returns and IRS information, the court is unable to determine if any of the
2 requested information is material.¹

3 ACCORDINGLY, and for good cause shown,

4 IT IS HEREBY ORDERED that on or before March 2, 2017, the Government deliver for *in camera*
5 inspection the tax returns and IRS records for Jacob Heftez and Herb Fey.

6 IT IS SO ORDERED.

7 DATED this 23rd day of February, 2017.

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11 CAM FERENBACH
UNITED STATES MAGISTRATE JUDGE
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25 ¹ The court will address the appropriate standard for materiality under *Brady* as part of its order after it has reviewed the relevant records.